

FIRST REGULAR SESSION

HOUSE BILL NO. 558

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ROORDA.

1501L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 478.220, 478.240, and 478.245, RSMo, and to enact in lieu thereof three new sections relating to associate circuit judges.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 478.220, 478.240, and 478.245, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 478.220, 478.240, and 478.245, to read as follows:

478.220. Circuit judges and associate circuit judges may hear and determine all cases and matters within the jurisdiction of their circuit courts, subject however, to the following restrictions:

(1) Circuit judges shall not hear and determine municipal ordinance violation cases, except upon trial de novo, unless the judge be transferred or assigned to hear and determine the case or that class of case pursuant to section 478.240 or 478.245, or section 6 of article V of the constitution; and

(2) **Associate circuit judges in any city not within a county shall not preside over the trial or sentencing phase of any class A felony case; and**

(3) Each circuit judge or associate circuit judge who serves as the judge of the probate division of the circuit court may hear and determine all cases and matters within the probate division of the circuit court in the county for which he is judge in accordance with the rules of civil procedure, except where specific statutes govern procedure in the probate division; and

~~[(3)]~~ (4) The provisions of this section authorizing the hearing and determination of particular cases or classes of cases by circuit judges and associate circuit judges shall be subject to the transfer, assignment, and disqualification provisions contained in article V of the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 constitution, in provisions of law, or in court rules which are authorized by the constitution or
18 by law.

478.240. 1. The presiding judge of each circuit which is provided by subsection 3 of
2 section 15 of article V of the constitution shall be selected for a two-year term. The circuit and
3 associate circuit judges in each circuit shall select by secret ballot a circuit judge from their
4 number to serve as presiding judge. Selection and removal procedures, not inconsistent with the
5 rules of the supreme court, may be provided by local court rule. If a presiding judge is
6 disqualified from acting as a judicial officer pursuant to the constitution, article V, section 24,
7 the circuit judges and associate circuit judges of the circuit shall select a circuit judge as
8 presiding judge. If the circuit does not have an eligible judge to be elected presiding judge, then
9 the chief justice of the supreme court may designate an acting presiding judge until a successor
10 is chosen or until the disability of the presiding judge terminates.

11 2. Subject to the authority of the supreme court and the chief justice under article V of
12 the constitution, the presiding judge of the circuit shall have general administrative authority over
13 all judicial personnel and court officials in the circuit, including the authority to assign any
14 judicial or court personnel anywhere in the circuit, and shall have the authority to assign judges
15 to hear such cases or classes of cases as the presiding judge may designate, and to assign judges
16 to divisions. Such assignment authority shall include the authority to authorize particular
17 associate circuit judges to hear and determine cases or classes of cases. By this subsection the
18 presiding judge shall not, however, be authorized to make the following assignments:

19 (1) Assignment of a municipal judge to hear any case other than to initially hear a
20 municipal ordinance violation case of the municipality which makes provision for such
21 municipal judge, except that the presiding judge of a circuit may assign a municipal judge of a
22 municipality within the circuit to hear and determine municipal ordinance violations in a court
23 of another municipality within the circuit if the municipality to which the judge is especially
24 assigned by the presiding judge has made provision for the compensation of such judge;

25 (2) Assignment of a judge to hear the trial of a felony case when he has previously
26 conducted the preliminary hearing in that case;

27 (3) Assignment of a case to a judge contrary to provisions of supreme court rules or local
28 circuit court rules; and

29 (4) Assignment of a case or class of cases not within the class of cases specified in
30 section 472.020, to a circuit judge who is also judge of the probate division and who was on
31 January 1, 1979, a probate judge shall only be with the consent of such judge of the probate
32 division; and

33 **(5) Assignment of an associate circuit judge in any city not within a county to**
34 **preside over the trial or sentencing phase of a class A felony case.**

35 3. If any circuit judge or associate circuit judge shall proceed to hear and determine any
36 case or class of cases which has not been assigned to him by the presiding judge pursuant to
37 subsection 1 or 2 of this section, or to which he had not been transferred by the chief justice of
38 the supreme court, or in the event the purported assignment to him shall be determined to be
39 defective or deficient in any manner, any order or judgment he may have entered may be set
40 aside, as otherwise provided by rule or by law, and the judge may be subject to discipline under
41 article V, section 24 of the Missouri Constitution, but he shall not be deemed to have acted other
42 than as a judicial officer because of any such absence, defect or deficiency of assignment under
43 this section, or transfer by the chief justice.

 478.245. 1. Subject to the provisions of article V of the constitution and authority
2 exercised under such provisions, the circuit judges of the circuit may adopt local court rules
3 which provide:

4 (1) Cases or classes of cases that may or shall be assigned to particular divisions of the
5 circuit court;

6 (2) Filing (including the place of filing) and assignment systems for the circuit court of
7 each county which may include: (a) centralized filing procedures for cases which are heard by
8 circuit judges; (b) centralized assignment procedures or individualized docketing procedures for
9 cases or classes of cases which are heard by circuit judges; and (c) filing and assignment
10 procedures for cases which are heard by municipal judges.

11 2. Notwithstanding the provisions of subsection 1 of this section, no such local circuit
12 court rule:

13 (1) Shall provide for assignments which a presiding judge is prohibited from making by
14 subdivisions (1), (2) [and] , (4), **and (5)** of subsection 2 of section 478.240 or which are contrary
15 to provisions of supreme court rules;

16 (2) Shall provide for the maintenance of the permanent case records and judgments of
17 the circuit court other than with the circuit clerk, except records with respect to probate cases,
18 misdemeanor and municipal ordinance violation cases, records in felony cases before the filing
19 of an information, and records in cases within the categories of cases specified in subdivisions
20 (1), (2) and (3) of subsection 1 of section 517.011; and

21 (3) Shall provide for the filing of cases or the maintenance of the permanent records in
22 cases which are heard by municipal judges outside of the municipality providing the municipal
23 judge, except in those situations where there is a trial de novo or the municipality consents to
24 such filing or maintenance of records.

25 3. Local circuit court rules shall be adopted by a majority of the circuit judges of the
26 circuit. A copy of each circuit court rule certified by the presiding judge of the circuit shall be
27 filed with the circuit clerk and the clerk of the supreme court, and shall not become effective

28 until so filed. Each local circuit court rule adopted prior to January 2, 1979, shall cease to be
29 effective sixty days after that date if a copy thereof certified by the presiding judge of the circuit
30 is not filed with the clerk of the supreme court during that period of time.

31 4. Subject to the provisions of article V of the constitution and authority exercised under
32 such provisions, a majority of circuit and associate circuit judges of the circuit by order may
33 provide for: (1) centralized filing or divisional filing of cases or classes of cases which are heard
34 by associate circuit judges; and (2) centralized assignment procedures or individualized
35 docketing procedures of cases or classes of cases which are heard by associate circuit judges.
36 A copy of each such order certified by the presiding judge of the circuit shall be filed with the
37 circuit clerk and the clerk of the supreme court, and shall not become effective until so filed.

✓